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REFLECTIONS ON HUMAN RIGHTS

I. The natural law, in its original conception, was intended to include both rights and duties. The exclusive emphasis on the Rights of Man belongs to the eighteenth century. In our own time, a considerable change of feeling has occurred. Modern man seems to be willing to admit that rights are conditional on duties.

This change of feeling is obvious with respect to property rights. A natural right of doing with one's property whatever one pleases can no longer be claimed. Social legislation interfering in the ways a man runs his factory is supported by public feeling everywhere. The rights of property imply duties.

II. Hence it seems that any modern formulation of a bill of natural rights should be supplemented by a bill of duties. Any formulation, however, of these obligations of man encounters difficulties far greater than the formulation of a Bill of Rights. If we assume that the principle of natural law should be respected by, or find an expression in, positive law, any formulation of such obligations will provide the actual power-holder not only with the moral excuses and the intellectual tools but also with the legal instruments to disregard the Rights of Man. It is he who decides whether the obligations have been respected.

III. There is only one such obligation, the legal recognition of which may do no harm (though perhaps not much good either). It is everybody's duty to recognize the human rights of his fellow citizen. This would mean, in practice, that whoever advocates the disregarding or abolishing of these rights loses the moral claim to, and the legal protection of, his own human rights.

IV. If, however, these duties of man should be duties towards the "public welfare" the"Society", and the state and rights are made conditional on the fulfilment of these duties, the duties will uproot the rights. The rights will wither away. Whoever is in a position to interpret the salus publica or to act in the name of "Society" or "state" can use the allegedly unfulfilled duties to shove aside the rights.

V. A bill of duties of the citizens towards the state would require as its counterpart a formulation of the duties of the "sovereign" state towards the citizen. However, though the state can compel the citizen, the citizen cannot compel the state to respect these duties.

Hence the possibility that a government transgresses the rights or fails in its duties would logically require not only a right, but a duty, of rebellion or revolution on the side of the citizen - a thing completely empty under modern technological conditions. As this right and duty of revolution can be misused, the state will again have a right and the duty to suppress such

revolutions. That means the theoretical justification of civil war by natural law.

VI. Conclusion: Any bill of rights that makes the rights conditional on duties towards society or the state, however strong its emphasis on human dignity, freedom, God, or whatever else, can be accepted by any kind of totalitarian leader. He will enforce the duties while disregarding the rights.

Hence a bill of rights would better be restricted to rights, i.e. to those rights which as minimum conditions, however insufficient, of human freedom any state or society can respect and protect — these are the old civil liberties. Any addition, be it of economic rights, be it of duties, means in practice weakening the civil rights and their hold on the human mind.